

**ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU**



Advisory Opinion No. 240

This is an advisory opinion in response to a Councilmember's ("A") letter requesting advice from the Ethics Commission as to the identification of when a conflict of interest is created and the measures to be taken if that occurs.

The Commission understands the facts relative to the inquiry to be as follows:

A is a member of the City Council, and on January 1, 1994, A became "of counsel" to a law firm ("XYZ"). In that status, A does not directly gain in the profit-sharing of the firm. A's work there is generally in the field of international law, and it includes the identification and negotiation of contracts for employment of Hawaii businesses in other parts of the world. Both A and others in that law office have clients, such as architectural firms, which may be employed by other entities which appear before the Council for various purposes.

Additionally, A is a strong proponent and supporter of Honolulu's sister relationships (including that with Hainan Island, China) and Honolulu's international role in the Pacific. A has personally lead delegations of businesspersons and others to form business and economic ties with Hainan.

However, to date the costs have exceeded any income produced for A.

The ethical questions presented are whether A's service as a Councilmember, A's employment as an attorney, and A's personal support for Honolulu's sister relationship with Hainan Island, China, create conflicts of interest, and what A is required to do if a conflict of interest occurs.

The first general rule in relation to A's questions is found in the Revised Charter of the City and County of Honolulu 1973 (1984 Ed.) [RCH], Section 11-102.3, which states in pertinent part:

No elected or appointed officer or employee shall... [e]ngage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of such person's official duties or which may tend to impair the independence of judgment in the performance of such person's official duties.

The second general rule in relation to A's questions is found in Section 11-103, RCH, which states in pertinent part:

Any elected...officer...who possesses or who acquires such interests as might reasonably tend to create a conflict with the public interest shall make full disclosure in writing...to the council, in the case of a member of the council, and to the ethics commission, **at any time such conflict becomes apparent**. Such disclosure statements shall...be filed with the city clerk. Any member of the council who knows he [sic] has a personal or private interest, direct or indirect, in any proposal before the council, shall disclose such interest in writing to the council. Such disclosures shall be made a matter of public record **prior to the taking of any vote on such proposal**. (Emphasis added)

Based on the evidence presented, the Commission finds that A is not responsible for inquiring whether any client of A's law firm is doing work for any company with a pending application before the Council nor for finding out if any client of the law firm has any matter pending before the Council. As long as A does not violate Section 11-102.3, RCH, in A's association with Hainan or any other business venture, A will create no conflict of interest. If a question arises in respect to specific circumstances, A should immediately contact the Ethics Commission for advice at that time. Enclosed for your information is a copy of the Commission's *Guidelines on Abstention from Voting*.

Attachment

Dated: June 2, 1994

SAMUEL L. DOMINGO
Chair, Ethics Commission